

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION**

COREY RICHARDSON,

Plaintiff,

v.

JANE DOE, *et al.*,

Defendants.

:
:
:
:
:
:
:
:
:
:
:

Civil Action No. 7:09-CV-136 (HL)

ORDER

Currently before the Court is Plaintiff's Motion for Leave to Appeal In Forma Pauperis (Doc. 12).

On February 17, 2010, the Court entered an order dismissing this case as frivolous. Judgment dismissing the case was entered on February 18, 2010. Plaintiff subsequently filed a notice of appeal from the Court's order and judgment, and he seeks to proceed in forma pauperis on appeal.

Proceedings in forma pauperis are addressed at 28 U.S.C. § 1915(a), which authorizes the commencement of, among other things, an appeal without prepayment of fees. The Court may allow Plaintiff to proceed on appeal without the prepayment of fees if he "submits an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees or give security therefore. Such affidavit shall state the nature of the action, defense or appeal and affiant's belief that the person is entitled to redress." 28 U.S.C. § 1915(a)(1). The

statute further provides, however, that an appeal “may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” 28 U.S.C. § 1915(a)(3). Courts construing the “good faith” provision of § 1915(a)(3) have generally held that an appeal that is “not being pursued in good faith” is one that is frivolous. In re Arnold, 166 Fed. Appx. 424 (11th Cir. 2006) (unpublished); see also Ghee v. Retailers Nat. Bank, 271 Fed. Appx. 858, 859-60 (11th Cir. 2008) (unpublished).

In forma pauperis proceedings are also governed by Federal Rule of Appellate Procedure 24(a)(1), which requires a party who desires to appeal in forma pauperis to file a motion in the district court. The party must attach an affidavit to the motion that (1) shows in the detail prescribed by Form 4 of the Appendix of Forms the party’s inability to pay or to give security for fees and costs; (2) claims an entitlement to redress; and (3) states the issues that the party intends to present on appeal. Fed. R. App. P. 24(a)(1).

Plaintiff is not entitled to proceed in forma pauperis on appeal for a number of reasons. First, he has not filed the affidavit required by § 1915(a). Second, Plaintiff’s filing does not meet the requirements of Rule 24. He has not submitted a form that would comply with the requirements of Rule 24, his motion does not claim an entitlement to redress, and he has not stated the issues that he intends to present on appeal. Finally, the Court has already determined that Plaintiff’s action is

frivolous. Therefore, an appeal of the dismissal of the case is also frivolous and not taken in good faith.

Plaintiff's Motion for Leave to Appeal In Forma Pauperis (Doc. 12) is denied.

SO ORDERED, this the 14th day of April, 2010.

s/ Hugh Lawson
HUGH LAWSON, SENIOR JUDGE

mbh